



# Activity Review

## North Carolina State Board of Certified Public Accountant Examiners

1101 Oberlin Road, Suite 104 • PO Box 12827 • Raleigh, NC 27605 • 919-733-4222 • No. 11-2005

### CPA Firm Renewal/Peer Review Compliance Due

Recently, CPA firm renewal/peer review compliance forms were mailed to all registered CPA firms including individual practitioners, partnerships, professional corporations, professional limited liability companies, and registered limited liability partnerships.

By reading the instructions included with the form; reviewing 21 NCAC 8J, *Renewals and Registrations*, and 21 NCAC 8M, *Peer Review Program*; and following the checklist below, you can ensure that your CPA firm's renewal/peer review compliance information is received by the Board prior to the December 31 deadline.

#### CPA Firm Renewal/Peer Review Compliance Checklist

- If the information on the form is incorrect or incomplete, make the necessary corrections or additions and return the form in the postage-paid envelope provided.
- The form must be signed to be complete. **Do not** detach and return only the signature portion of the form; you must return the entire form, even if no changes were made.
- If the CPA firm is no longer in operation, check the appropriate box, sign the form, and return it and if appropriate, filed articles of dissolution or withdrawal, to the Board. Choosing not to return the form does not constitute notifying the Board that the CPA firm is no longer in operation and you may be subject to disciplinary action by the Board.

- If fees are due, the check must be made payable to the NC State Board of CPA Examiners. Checks made payable to other organizations such as the NCACPA will not be accepted. Fees may also be paid using MasterCard or VISA.

- If there have been any changes in employees, partners, shareholders, members, etc., make the necessary corrections to the supplemental form. If there have not been any changes, initial the supplemental form and attach it to the main page of the renewal form.

- If the CPA firm's peer review has been completed, but is not indicated on the form, write in the date of completion and provide the appropriate documentation. For an unmodified opinion, simply send the acceptance letter. For a second consecutive modified opinion or for an adverse opinion, you must send the peer review report, the letter of comments, letter of response, and final acceptance letter.

If a CPA firm fails to comply with any part of 21 NCAC 8J, *Renewals and Registrations* or 21 NCAC 8M, *Peer Review Program*, the Board may take disciplinary action (as specified in 21 NCAC 8J.0111 and 21 NCAC 8M.0106) against the CPA firm's members. Such action may include a conditional license, civil penalty, and suspension of each CPA firm member's CPA certificate.

If you have questions about your CPA firm's renewal or peer review compliance, please contact Lisa Moy at 919-733-1423 or at [lisamoy@bellsouth.net](mailto:lisamoy@bellsouth.net).

### AICPA to Relocate Select Operations to Durham, NC

On October 25, 2005, the American Institute of Certified Public Accountants (AICPA) announced that it will relocate select operations currently located in Jersey City and New York City to Durham, NC.

The decision to relocate was the result of an extensive financial and location analysis conducted by AICPA management, with the assistance of consultants.

"The relocation will position us for the next century of service to CPAs of this country," said Barry C. Melancon, AICPA President and CEO.

**AICPA**

*continued on page 4*

[www.cpaboard.state.nc.us](http://www.cpaboard.state.nc.us)

### Inside this issue...

Annual CPE Reminder .....	6
Approved Ethics CPE Courses .....	6
Certificates Issued .....	4
Disciplinary Actions .....	2, 3, 7
Office Closed .....	7
Notice of Address Change .....	8
Reclassifications .....	5
Residency Stats .....	5

**Paul E. Cobb, Jr., #7392**  
**Graham, NC 08/22/2005**

*THIS CAUSE*, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 7392 as a Certified Public Accountant.
2. Respondent is a shareholder in the registered CPA corporation, Cobb, Ezekiel, Brown, and Company, P.A. (CPA firm), and a member of the ancillary firm, CEB Financial Services, LLC (CEB Financial).
3. At some time on or prior to August 16, 2000, a client engaged Respondent in his capacity as a CPA, as well as other members of the CPA firm.
4. In the course of the CPA-client relationship, client requested advice as to how he might defer greater income derived from his professional practice. Respondent recommended that the client consider a section 412(i) defined-benefit pension plan.
5. To assist Respondent in the preparation of investment and estate planning strategies and suggestions, the client authorized Respondent to disclose his 1999 taxpayer information to CEB Financial.
6. Client contended but Respondent denies that Respondent also disclosed to CEB Financial the client's confidential taxpayer information for other tax years without obtaining express prior permission from the client to disclose this additional confidential client information.
7. On or about August 16, 2000, at Respondent's request, the client signed a document (Exhibit 1), which was also signed on behalf of CEB Financial by an individual who was also employed by the CPA firm, stating that CEB Financial would be providing "insurance and investing products" and would be "re-

## Disciplinary Actions

ceiving commissions for these products." The document did not disclose the specific commission or reference specific transactions.

8. At a later time in 2002, Respondent recommended and client agreed to the implementation of a section 412(i) pension plan. Said plan included the purchase of annuities, for which Respondent and CEB Financial would receive commissions from a third party. Respondent and CEB Financial received commissions from third parties for the sale of the annuities.

9. Respondent did not provide to the client nor obtain client's signature on any written statement which disclosed the specific product to be purchased and the amount of the commission fee to be received. The client contends but Respondent denies that the client was unsure as to the amount of the commission or referral fee and who was actually receiving commissions or referral fees from his purchase.

10. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

*BASED UPON THE FOREGOING*, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute a violation of NCGS 93-12(9)e and 21 NCAC 8N .0303(e).

*BASED ON THE FOREGOING* and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent is censured.
2. Respondent firm shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted with this signed Order.
3. Respondent shall reimburse the Board five hundred dollars (\$500.00) in administrative costs incurred in the investigation of this matter. Said costs shall be remitted with this signed Order.

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**Donald Leo Fruehauf McAvoy, #12820**  
**Fleming Island, FL 08/22/2005**

*THIS CAUSE*, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 12820 as a Certified Public Accountant.
2. Respondent is registered with the Board as an individual practitioner firm.
3. On his 2004-2005 individual certificate renewal, which Respondent signed on July 20, 2004, Respondent informed the Board that his home and business addresses had changed and provided a new home address in Green Cove Springs, Florida.
4. In December of 2004, based on notification by the United States Postal Service (US Postal Service) that Respondent's business address had changed, Board records were changed to reflect the new business address for Respondent's firm as the Green Cove Springs address provided by the US Postal Service.

### Count 1

5. Complainant A engaged Respondent to prepare his 2003 tax return. In February of 2004, Complainant A provided Respondent with the information necessary to prepare Complainant A's 2003 tax return.
6. Despite Respondent's assurances to his client that the 2003 tax return would be ready by April 15, 2004, Respondent

failed to complete the tax return by April 15, 2004.

7. In September of 2004, Complainant A filed a complaint against Respondent with the Board after having been unable to determine, through his personal contacts or through the services of an attorney, the status of his records or his 2003 tax return.

8. Respondent states that, on September 17, 2004, Complainant A's records were returned by Respondent to Complainant A.

9. Complainant A states that he suffered the costs of long distance telephone calls, legal fees, and late filing fees due to Respondent's failure to timely respond to requests for information, failure to complete work, and failure to return client records.

### **Count 2**

10. Complainants B and C engaged Respondent to prepare their 2003 tax return. In February of 2004, Complainants B and C provided Respondent with the information necessary to prepare their 2003 tax return.

11. Sometime in April of 2004, Respondent filed a tax extension on behalf of the Complainants B and C without their knowledge or approval.

12. Respondent failed to advise Complainants B and C of the status of their 2003 tax returns, failed to complete those tax returns by the extension date of August 15, 2004, and failed to contact Complainant B and C about the whereabouts of their 2003 tax records.

13. In December of 2004, Complainants B and C, having been unable to determine, through personal contacts, the status of their records or their 2003 tax return, filed a complaint with the Board against the Respondent.

14. The Board staff wrote to Respondent in January of 2005 requesting his response to the Complainants B and C's complaint. In February of 2005 Complainants B and C wrote to the Board attempting to withdraw their complaint.

15. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

*BASED UPON THE FOREGOING*, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out in Count 1 above constitute violations of NCGS 93-12(9)e and 21 NCAC 8N.0206, .0207, .0212, and .0305.

3. Respondent's actions as set out in Count 2 above constitute violations of NCGS 93-12(9)e and 21 NCAC 8N.0206, .0212, and .0305.

*BASED ON THE FOREGOING* and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent is censured.

2. Respondent firm shall pay a five hundred dollar (\$500.00) civil penalty to be remitted with this signed Order.

3. Respondent firm shall reimburse the Board five hundred dollars (\$500.00) in administrative costs incurred in the investigation of this matter. Said costs shall be remitted with this signed Order.

4. Respondent shall, within sixty (60) days of the Board's approval of this Order, send a letter by certified/return receipt mail to all former clients whose records are still in his possession to arrange for the return of the client's records.

5. Respondent shall, within ninety (90) days of the Board's approval of this Order, provide the Board with the names, addresses, and telephone numbers for all of the former clients as noted in requirement #4 above.

6. Respondent shall, within one hundred twenty (120) days of the Board's approval of this Order, advise the Board as to the status of the return of the client records and provide copies of the return receipt cards or copies of the mailings as returned by the US Postal Service.

**Daniel Aaron Leder, #30304**  
**Weston, FL 08/22/2005**

*THIS CAUSE*, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 30304 as a Certified Public Accountant.

2. Respondent informed the Board on his 2004-2005 individual certificate renewal (renewal) that he had obtained the twenty (20) hours of continuing professional education (CPE) that he, as a new licensee, was required to meet for 2003 CPE. However, Respondent also informed the Board on said renewal that he earned some of his 2003 CPE between January 1, 2004, and June 30, 2004.

3. Respondent signed his 2004-2005 renewal declaring "under penalties of perjury...that the information in this application is true, correct and complete."

4. Based on Respondent's representation that, prior to June 30, 2004, he had completed a total of twenty (20) hours of CPE, the Board accepted his renewal.

5. Respondent's failure to timely obtain the required CPE was his first violation of NCGS 93-12(8b) and 21 NCAC 8G .0401(e) within a five (5) year calendar period. Respondent's certificate was placed on conditional status until September 20, 2005, and the Board chose not to require the one hundred dollar (\$100.00) civil penalty.

6. Board staff requested by letter that, prior to October 4, 2004, Respondent provide course listings for the CPE reported to meet his 2003 CPE requirement.

7. Respondent submitted a "2003 Report of CPE for CPAs on Conditional Status," which provided CPE course listings to the Board indicating ten (10)

**Leder**

*continued on page 7*



## **AICPA** continued from front

This initiative was driven largely by the continuing escalation of labor costs in the New York metropolitan area, as well as the existence of excess space in AICPA's Jersey City location.

The relocation is expected to provide the AICPA with an annuity savings of approximately \$10-11 million dollars per year over a 15-year period.

Approximately 400 job functions will be moved to North Carolina beginning in August of 2006.

With few exceptions, the association's New York and Washington, D.C. offices will not be impacted by this move.

Melancon states that a critical objective for the move is to mitigate any disruption to service to AICPA members during the transition period.

"No other factor is as critical as maintaining effective ongoing membership service. For this reason we are planning a significant period of duplicate operations for impacted functions. In addition, we have brought an experi-

enced project management firm on board to drive the highest quality of planning and execution of the move."

"We recognize that change is not easy, and we will do everything possible for our members and for our staff to ensure a smooth transition," said Melancon.

"We believe this is the right long-term decision for AICPA," concluded Melancon. "The Raleigh-Durham area offers a premier labor market and significantly lower operating costs, as well as an exceptional quality of life for our staff."

## **Certificates Issued**

At its October 18, 2005, meeting, the Board approved the following applications for licensure:

Michael Paul Abasciano	Shelly A. Hanna	Matthew David Parkhill
Paulus Irwan Asali	Cori Ann Hansen	Casey Harrington Patterson
Joel Shannon Ayers	Miranda Leanne Harmon	Lisa Diane Pereira
Matthew Barnette	Lewis John Harris, Jr.	Diane Michelle Porath
Carolyn Elizabeth Billick	Ann E. Hazinski	Anthony J. Priore
Darren L. Brady	Jennifer L. Heater	William Eric Richardson
Amy Lea Branyon	David Kent Hill	Christa Mullis Robinson
Jason Gary Brasile	Lauren B. Hoyle	Richard Maughan Robinson
Elizabeth Ann Brown	Paige Alyson Hudson	Eric Allen Rumberger
Vanessa Anne Brunn	Diane Ennis Hueston	Emily Ann Ruschau
Michele Diane Burderi	Timothy Allen Johnson	Christopher John Schneider
Donna Juanita Byars	William Edward Johnson	Donald Rudolph Schroeder
Jonathan Bartholomew Campbell	Ronald Arthur Jordan	Kevin Thomas Sheehan
Audrey M. Carter	Robert L. Jorgensen	Christopher Matthew Shetzline
Laurence J. Casper	Jeffrey Howard Kaiser	Joanne Marie Simon
Herman Chen	Theodore James Karr	John O. Skelton
Edward Cho	Stuart Bryan Lockerbie	Beth Ann Sorrentino
Carlos Enrique Choren	Jesse Clements Lodge, III	James Linton Starling
Nathan Alden Chrisawn	John Anthony Lovato, Jr.	Stephen Michael Stillitano
Latrice Catherine Smith Collins	Virginia L. McGraw	Ronald Keith Stokes
Randy Douglas Crump	Swati Mehta	Claudia A. Straw
Rebecca Allison Dean	Daryl Daniel Mennen	Danielle J. Sweeney-Alisesky
Catherine Smoot Eason	Carroll E. Miller	Clint Syvinski
John Clyde Ellis	Joshua Todd Munsey	Scott I. Taylor
Sara Martin Ficken	Patrick Ambayi Mutongi	W. Alan Terry
Daniel Clay Gibbs	Scott Robert Nelson	Gregory Huston Turlington
Patrick Brennan Gilbert	Vassilena Nikolov	Lanny Michael Walters
Kimberly Ann Girdwood	Amy Hall Novinc	Rebecca C. White
Jason Michael Glover	Biri Adwoa Oguah	Kelley Jo Zastrow
Daniel Lee Goldberger	Bret N. Pacheco	

## Residency Statistics

(Active Licensees as of 10/31/05)

AK .....	4
AL .....	61
AR .....	13
AZ .....	21
CA .....	112
CO .....	30
CT .....	39
DC .....	16
DE .....	13
FL .....	312
GA .....	481
HI .....	4
IA .....	9
ID .....	2
IL .....	55
IN .....	24
KS .....	17
KY .....	25
LA .....	10
MA .....	47
MD .....	92
ME .....	5
MI .....	32
MN .....	17
MO .....	15
MS .....	13
MT .....	1
NC .....	13,512
ND .....	1
NE .....	3
NH .....	7
NJ .....	104
NM .....	2
NV .....	7
NY .....	106
OH .....	76
OK .....	7
OR .....	9
PA .....	101
RI .....	5
SC .....	619
TN .....	137
TX .....	134
UT .....	7
VA .....	413
VT .....	7
WA .....	32
WI .....	17
WV .....	11
Other .....	42
<b>TOTAL .....</b>	<b>16,829</b>

[www.cpaboard.state.nc.us](http://www.cpaboard.state.nc.us)

## Moved? Changed Jobs? Let Us Know!

Pursuant to 21 NCAC 8J.0107, all North Carolina CPAs and CPA firms must notify the Board, in writing, within 30 days of any change of address or business location.

For your convenience, a "Notice of Address Change" form is printed on the back cover of the *Activity Review* and is

available on the Board's web site, [www.cpaboard.state.nc.us](http://www.cpaboard.state.nc.us).

Address changes may be mailed, faxed, or e-mailed to the Board.

Fax your address changes to the Board at 919-733-4209. E-mail your address changes to [cpareceptionist@bellsouth.net](mailto:cpareceptionist@bellsouth.net).

## Reclassifications

### Reinstatement

10/18/05	Billie Goodman Ausdenmoore	25953
10/18/05	Kenneth Ray Carpenter	26800
10/18/05	Nia Ricks Davenport	24894
10/18/05	Marjorie Clark Fickling	26414
10/18/05	Gary Leonard German	8814
10/18/05	Sandra B. Jones	23191
10/18/05	Robin Michelle Reinhard	30161
10/18/05	Jean L. Smith	18085
10/18/05	Misty Dawn Watson	27034

### Reissuance

10/18/05	Melissa McDowell Wright	26521
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### Inactive

"Inactive," when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant" and neither he nor she nor anyone else refers to him or her in any representation as described in 21 NCAC 8A .0308(b) [21 NCAC 8A .0301(b)(23)].

09/27/05	Joan Arnold Hearn	Charlotte, NC
09/30/05	James Egbert Trumble, Jr.	Brentwood, TN
10/04/05	Susan Julian Roberson	Salisbury, NC
10/07/05	Carla Hester Rillie	Raleigh, NC
10/07/05	Margaret Maske Clayton	Charlotte, NC
10/11/05	Ronald Jacob Clein	Winston-Salem, NC
10/12/05	Gary Dale Burkette	Johnson City, TN
10/14/05	A. Wade Evans	Boone, NC
10/18/05	Wilson McGregor MacEwen	Sumter, SC
10/18/05	Ann Roberts Smythers	Charlotte, NC
10/18/05	Traci Leigh Plyler	Denver, NC
10/25/05	Marion Buxton Rorie	Fort Mill, SC
10/27/05	Christian M. Kurtz	New York, NY
10/31/05	Harry Ernest Clements	Marietta, GA
10/31/05	Audrey Farmer Baldwin	Greensboro, NC

# Annual CPE Reminder

The December 31, 2005, deadline for completing the 40-hour continuing professional education (CPE) requirement for license renewal is fast approaching and some licensees may still be trying to fulfill that requirement.

Pursuant to 21 NCAC 8G .0406, *Compliance with CPE Requirements*, a licensee who fails to complete the CPE requirement in a timely manner is subject to disciplinary action and may be ineligible to renew his or her certificate.

21 NCAC 8G .0409(c) requires that active licensees complete at least eight hours of non-self study CPE each year as part of the annual 40-hour CPE requirement; that is, no more than 32 hours of the annual 40-hour requirement may be self-study.

A licensee is not required to take any self-study CPE, but is required to take at least eight hours of CPE that is not self-study.

The eight hours of non-self-study CPE does not have to be one 8-hour course. A licensee may take one 8-hour course, two 4-hour courses, four 2-hour courses, etc., as long as each of the courses are non-self-study.

Because the requirement is an annual requirement, a licensee cannot use carry-forward CPE hours to satisfy the requirement – when CPE hours are used as carry-forward, they lose their self-study/non-self-study characteristics.

Licensees taking self-study courses to fulfill the Board's 40-hour CPE requirement should note that a self-study course is not considered complete until the CPE sponsor issues a Certificate of Completion.

The date the Board will accept for CPE credit is the Certificate of Completion date, not the date the course was completed or the date the completed course was mailed to or received by the sponsor.

Individuals who complete self-study courses late in the year sometimes cannot claim CPE credit for that calendar year because the CPE sponsor issues the Certificate of Completion in the next calendar year.

It is strongly suggested that licensees who plan to use self-study courses to fulfill the CPE requirement complete the courses and mail them to the sponsor as soon as possible.

It is also suggested that the licensee

advise the sponsor to date the Certificate of Completion for 2005.

CPAs cannot claim reading accounting journals, periodicals, reference guides, or related materials and taking a test designed to assess reading comprehension as credit for CPE.

21 NCAC 8G .0410, *Professional Ethics and Conduct CPE*, requires all active resident and non-resident licensees to complete either a two-hour group study professional ethics and conduct CPE course or a four-hour self-study professional ethics and conduct CPE course as part of the annual 40-hour CPE requirement.

Only those courses which have been approved by the Board and that are offered by Board-registered CPE sponsors (including NASBA CPE sponsors) can be used to fulfill the ethics CPE requirement.

If you have questions about CPE, please contact Lisa Moy at 919-733-1423 or [lisamoy@bellsouth.net](mailto:lisamoy@bellsouth.net).

**NOTE:** A list of Board-approved ethics CPE courses and sponsors, as well as the most recent version of the Board's *CPE Sponsor Register* is available from the Board's web site, [www.cpaboard.state.nc.us](http://www.cpaboard.state.nc.us).

## Board-Approved Ethics CPE Courses\*

### SELF-STUDY COURSES

*Ethics and Professional Conduct for North Carolina CPAs*  
4 hours  
Professional Education Services, LP  
[www.pescpe.com](http://www.pescpe.com)  
1-800-998-5024

*North Carolina Ethics*  
4 hours  
Accountants Education Group  
[www.accountantsed.com](http://www.accountantsed.com)  
1-800-627-7310

*Professional Ethics and Conduct*  
4 hours  
NCACPA  
[www.ncacpa.org](http://www.ncacpa.org)  
919-469-1040  
1-800-722-2836

### GROUP STUDY COURSES

*Ethics CPE for NC CPAs*  
2 hours  
UNC - Charlotte Dept. of Accounting  
704-687-2445  
[accountingcpe@email.uncc.edu](mailto:accountingcpe@email.uncc.edu)

*North Carolina Accountancy Law Course: Ethics, Principles, and Professional Responsibilities*  
8 hours  
NCACPA  
[www.ncacpa.org](http://www.ncacpa.org)  
919-469-1040  
1-800-722-2836

*Professional Ethics and Conduct*  
2 hours  
Tim Kennedy, CPA  
[jtkenn89@aol.com](mailto:jtkenn89@aol.com)  
919-303-5235

*Professional Ethics and Conduct for North Carolina CPAs*  
2 hours  
Leveraged Logic  
[www.leveragedlogic.com](http://www.leveragedlogic.com)  
828-254-4812

*Professional Ethics and Conduct*  
2 hours  
NCACPA  
[www.ncacpa.org](http://www.ncacpa.org)  
919-469-1040  
1-800-722-2836

*Professional Ethics and Conduct for NC CPAs*  
2 hours  
Pittard Perry & Crone, Inc.  
919-751-8297  
[lowell@ppccpa.com](http://lowell@ppccpa.com)

\*as of 10/18/2005

**Leder** continued from page 3

hours of CPE were taken in 2003 and ten (10) hours of CPE were taken in 2004 for a total of twenty (20) hours of CPE.

8. In these listings, Respondent listed two courses with CPE credit hours claimed of 2.5 CPE hours and 3.5 CPE hours. Since NCAC 8G .0409(a) only allows CPE credit to be granted for full contact hours, Respondent could only claim 2 and 3 CPE hours for these courses. This reduced Respondent's total CPE credit hours from twenty (20) to nineteen (19) hours which caused Respondent to be short of the CPE hours needed for renewal.

9. Respondent wishes to resolve this matter by Consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

*BASED UPON THE FOREGOING*, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and 21 NCAC 8J .0101(b), 8N .0202(a), .0202(b)(3), .0202(b)(4), and 8N.0203(b)(1).

*BASED ON THE FOREGOING* and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is insufficient and untimely under NCGS 150B-3(a). Hence, his certificate is automatically forfeited pursuant to NCGS 93-12(8b).

2. Respondent must return his forfeited certificate to the Board with this signed Consent Order.

3. Respondent may not apply for the reinstatement of his certificate for

ninety (90) days from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.

4. Respondent may apply to return his certificate to active status by submission and approval of a reinstatement application which includes:

- a. Application form,
- b. Payment of the application fee,
- c. Three moral character affidavits, and
- d. Forty hours of CPE in the 12 months preceding the application including an eight-hour accountancy law course as offered by Highland Publishing in a self-study format.

5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted within six (6) months of the date this signed Order is accepted by the Board.

6. Before December 31, 2005, Respondent must obtain twenty (20) additional hours of CPE which cannot be used in meeting the CPE requirement for reinstatement or the forty (40) hour annual requirement for 2005.

7. Respondent agrees that failure to timely comply with any terms of this agreement and consent order shall be deemed sufficient grounds for revocation of his license.

**Noah Kinlaw Duncan, #3640**  
**Cary, NC 08/22/2005**

*THIS CAUSE*, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent was the holder of North Carolina certificate number 3640 as a Certified Public Accountant.

2. In December of 1996, Respondent requested that his North Carolina CPA certificate be placed on inactive status. Respondent nevertheless remained eligible for reinstatement under the Board's rules inasmuch as his certificate had not been revoked.

3. On September 11, 2003, Respondent plead guilty to one count of felonious

Medical Assistance Provider Fraud for conduct occurring on or before January of 1997 and was placed on twenty-four (24) months of unsupervised probation, required to pay \$125.00 in court costs, fined \$100,000.00 and ordered to pay restitution of \$191,872.00 to the North Carolina Fund for Medical Assistance. Respondent represents that any and all fines, costs and restitution were paid in full as of April 28, 2004 and Respondent's probation was terminated.

4. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

*BASED UPON THE FOREGOING*, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12(9)a and e and 21 NCAC 8N .0201, .0202, .0203, and .0204.

*BASED ON THE FOREGOING* and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. The Certified Public Accountant certificate issued to Respondent, Noah Kinlaw Duncan, is hereby permanently revoked.

### Office Closed

The Board office will be closed Friday, December 23, 2005, and Monday, December 26, 2005, for Christmas.

The Board office will be closed Monday, January 2, 2006, for New Year's Day.





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## Notice of Address Change

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Certificate holders not notifying the Board in writing within 30 days of any change in address or business location may be subject to disciplinary action under 21 NCAC 8J .0107.